

REMARKS

At the time of the Office Action, claims 1-13 were pending and considered. Claims 8-13 have been allowed, and claims 1-7 have been rejected. In response, Applicants submit the following remarks. Upon entry of this Amendment claims 1-13 remain pending. Reconsideration and allowance of all claims are respectfully requested.

Response to Rejection under 35 U.S.C. §112

Claims 1-7 have been rejected under 35 U.S.C. 112, first paragraph. The Examiner states that the claims fail to comply with the enablement requirement in that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The Examiner specifically refers to the limitation in claim 1, lines 5 and 8; "forming a container holding portion only in the carrier sheet" and "forming a handle portion only in the handle sheet" as not being described in the filed disclosure or specification in a clear way to be understood. The Examiner then refers to the filed specification, from the last line of page 3 through the end of the first paragraph on page 4, which refers to "forming holes in the first handle portion similarly shaped to the first row of apertures" and "forming holes in the second handle portion similarly shaped to the third row of apertures" and as further supported in the filed drawings, Figs. 2-4 via holes formed in the handle sheet similarly to the holes formed in the carrier sheet. The Examiner then concludes that this is contradictory to the claim language using a limitation "only" as it seems like a container holding portion and handle portion have been formed similarly/simultaneously in both sheets (the carrier and handle sheets) not as claimed "only in the carrier sheet" nor "only in the handle sheet".

This rejection is respectfully traversed for the reasons stated below. Claim 1 has been amended for clarification, and is believed to be fully enabled by the description in the specification in such a way as to enable one skilled in the art to make and/or use the invention. Accordingly, it is requested that the Examiner consider the following remarks, remove the rejection under 35 U.S.C. 112 and allow the claims.

The method of making container carriers is described in paragraphs [37] through [42] which includes positioning the sheets 102, 104 "on each other in overlying manner (paragraph [37] line 3); and connecting the sheets by welding (paragraph [37] line 8). The procedure for forming the

apertures of the container holding portion simultaneously with forming the holes of the handle portion is described in paragraph [39], which is specifically described to include forming apertures and holes that are "similarly configured...as the cutting equipment shears through overlying sheets 102 and 104." (See paragraph [39] lines 1-4). Forming the third row of apertures simultaneously with and similarly configured to a second row of holes in the handle portion is similarly described in the same paragraph.

It is respectfully submitted that one skilled in the art would clearly understand from the written description and drawings how a carrier is made to include a container holding portion only in a carrier sheet and a handle portion only in the handle sheet even though apertures of the container holding portion and holes of the handle portion are similarly configured and simultaneously formed by cutting through overlying portions of the handle sheet and the carrier sheet. The steps of claim 1 and a carrier configured in accordance with manufactures according to the method of claim 1 are described in the specification and shown in the drawings.

It is respectfully submitted that the claims are not contradictory to the description in the specification. The claim recites that the handle portion is formed only in the handle sheet and the container holding portion is formed only in the carrier sheet. The written description describes a process and a carrier formed by the process in which a handle portion is formed only in the handle sheet and a carrier portion is formed only in the carrier sheet even though the apertures and holes of each are simultaneously formed in overlying fashion by cutting equipment shearing through the overlying sheets. Thus, the claims and written description are completely consistent with each other.

Reciting that a handle portion is formed only in a handle sheet, and a carrier portion only in a carrier sheet does not preclude holes in the handle sheet and apertures in the carrier sheet being of similar configuration. The specification describes it, the drawings show it and the claims recite it. The overall configuration of the carrier can be such that containers are not held by the handle portion even though the holes of the handle portion are similarly shaped to the holes of the container holding portion. For example, and not limitation, the specification describes an embodiment in which handle sheet 102 and carrier sheet 104 are provided from different materials (see paragraph [36] on page 8). Material of the carrier sheet is sufficiently stretchable so that the apertures therein can be stretched around and retain containers therein. The material of the handle sheet may have different physical

properties such that even though the holes thereof are shaped similarly to the apertures of the container holding portion the handle portion does adapt or stretch for retaining containers. Further, the handle portion of the handle sheet may include outer structure by which the carrier is grasped i.e., the handle, and the additional structures can affect stretchability of the holes formed in the handle portion such that even though the handle portion holes are similarly shaped to the container receiving apertures the handle portion is not properly suitable for retaining containers.

The recitation and description of a handle sheet having holes similarly shaped to container receiving apertures in a carrier sheet are not contradictory even if the holes are simultaneously formed and similarly shaped. Accordingly, it is respectfully submitted that the rejection under 35 USC 112 is inappropriate and should be withdrawn.

Response to Rejection under 35 U.S.C. §103(a)

Claims 1-7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,868,659 (Slomski) in view of U.S. Patent No. 5,487,465 (Broskow). It is respectfully submitted that, for the reasons stated below, amended claim 1 and all claims dependent thereon recite an invention allowable over the teachings of Slomski and Broskow. Reconsideration and allowance are respectfully requested.

In the analysis of the references, the Examiner applies the terms from the pending claims inaccurately to the teachings of the prior art. In discussing claim 1, the Examiner states that Slomski teaches “the holes and the first row of apertures formed in substantially the same configurations, see for example (Fig. 4).” However, in looking at Figs. 3 and 4 of Slomski, no holes in the handle portion 26 of Slomski are shaped in any way similarly to the container receiving apertures of the container engaging portion 24. Applicants respectfully submit that such a structure is clearly not taught by Slomski in which the container receiving apertures are shown to be substantially rectangular openings in the carrier sheet, and the holes in the handle sheet are of two types, both long and narrow, with the outer holes being more or less a flattened L-shape and a central hole being an elongated, thin slit. Clearly the apertures in the carrier sheet and the holes in the handle sheet of Slomski are not “formed in substantially the same configurations” as recited in claim 1. Accordingly, Slomski does not teach what the Examiner states is taught by Slomski, and therefore the rejections based thereon are not properly supported.

In discussing the teaching of Broskow with respect to claim 1, the Examiner states that the Broskow process teaches “cutting through overlying portions of the handle sheet and the carrier sheet to form holes and row of apertures in overlying arrangement, see for example (Fig. 5; via stamping die 64 cutting through overlying portions of the handle sheet/portion and the carrier sheet/portion to form holes of container receiving apertures and holes in the handle portion).”

It is respectfully submitted that the characterization of Broskow put forth by the Examiner is not correct, and that Broskow does not teach what the Examiner says it teaches. Broskow does not teach a separate handle sheet and a separate carrier sheet. Instead, Broskow teaches two identical sheets, each having a handle portion and a container receiving portion. While the sheets in the Broskow teaching are cut in overlying fashion, a carrier portion of one sheet overlies a carrier portion of the other sheet, and a handle portion of one sheet overlies a handle portion of the other sheet. Accordingly, contrary to the Examiner’s statement, Broskow does not teach cutting through overlying portions of the handle sheet and the carrier sheet to form handle portion holes and rows of apertures in overlying arrangement. No where in the teaching of Broskow do container receiving apertures overlie holes in a handle sheet, and the holes of the handle portion and the apertures of the carrier portion are not of similar shape in any way. Accordingly, Broskow does not teach what the Examiner states, and the rejections based thereon or not properly supported.

Contrary to the combined teachings of Slomski and Broskow, pending claim 1 as amended recites a method of making a container carrier in which a container holding portion is formed only in a carrier sheet and a handle portion is formed only in a handle sheet by positioning the handle sheet on at least a portion of the carrier sheet and cutting through overlying portions of the handle sheet and the carrier sheet and thereby forming holes in the handle sheet and a first row of container receiving apertures in the carrier sheet in overlying arrangement and in substantially the same configurations.

Claim 1 as amended now recites in part:

said step of forming holes in the handle sheet and said forming the first row of container receiving apertures in the carrier sheet being performed by cutting through overlying portions of said handle sheet and said carrier sheet and thereby forming said holes of the handle sheet and said first row of container receiving apertures of the carrier sheet in overlying arrangement and in substantially the same configurations one over the other.

It is respectfully submitted that the pending claims as amended recite a method for making a container carrier having specific steps and sequences not taught by the prior art, to achieve an improved carrier. Neither Slomski, Broskow or the combination thereof teaches a process or a carrier in which a separate and distinct handle sheet and a separate and distinct carrier sheet are provided in overlying arrangement, and wherein container receiving apertures in the discrete carrier sheet and holes in the discrete handle sheet are formed one above the other and in substantially the same configurations. Slomski does not teach apertures in a carrier sheet and holes in a handle sheet that are configured anywhere similar one to the other. Broskow teaches two sheets each having a portion thereof forming a carrier portion and a second portion thereof forming a handle portion. While the sheets overlie, container receiving apertures and handle portion holes do not overlie each other. Further, Broskow also fails to teach container receiving apertures in one sheet similar to holes in the handle portion of the other sheet.

Neither reference alone or in combination teaches the very distinct process steps and sequences recited in the rejected claims, to provide a carrier that can be produced efficiently while using materials that can be different for both the carrier sheet and the handle sheet to optimize the performance of each.

Regarding claim 3, the Examiner states that Slomski discloses “removing a portion of the handle sheet between the first and second spaced lines of attachment, see for example (Fig. 4; via by removing portions of handle 26 between two connecting lines 38), to define first and second handle sheet portions separate from each other (via sequence of handle sheet portions 26).” Fig. 4 of Slomski shows a series of carriers being formed, each carrier having a handle portion and a container receiving portion. In contrast, the present pending claims recite a method to produce a carrier which in claim 3 includes two handle sheet portions for the single carrier. Slomski does not teach a carrier having multiple handle sheet portions, only a series of carriers, with each carrier having a handle portion. Nothing in the teaching of Slomski suggests removing a portion of a handle sheet to provide first and second handle portions for a single carrier.

Regarding Fig. 4, the Examiner states that it would have been obvious to modify the teaching of Slomski in view of Broskow by having a third row of apertures in the carrier sheet since it is a

mere duplication of essential working parts. However, claim 4 recites more than the mere addition of additional essential working parts. Claim 4 recites a method of making a carrier which includes three rows of container receiving apertures (not taught by either Broskow or Slomski) with first and second handle portions (not taught by either Slomski or Broskow) for a single carrier; and positional relationships between the handle portions and the rows of container receiving apertures (not taught by either Slomski or Broskow).

With respect to claim 5 the Examiner states “Slomski discloses the step of forming holes in the handle sheet simultaneously with forming the apertures, see for example (Fig. 4).” However, as with the discussion of claims 1 and 8 above, Slomski does not teach forming any container receiving apertures of a carrier sheet or carrier portion in overlying arrangement with holes in a handle sheet or handle portion. Claim 5 recites forming overlying holes and the apertures by cutting through the overlying sheets.

With respect to claim 6 the Examiner states “Slomski discloses a step of forming first and second handles in the handle sheet (via multiple forms of 26).” However, claim 6 recites first and second handles in the handle sheet of a single carrier, not for multiple carriers as taught by Slomski. Nothing in Slomski teaches multiple handles for a single carrier.

Claims 2 and 7 depend from independent claim 1 discussed above, and therefore include all of the limitations thereof while adding further specificity to the invention recited therein. Since independent claim 1 is believed to be allowable for the reasons stated above, it follows that dependent claims 2 and 7 also are allowable for the same reasons.

It is respectfully submitted that the Examiner has misconstrued teachings of the prior art against the limitations of the pending claims. The Examiner has used a combination of hindsight and selective identification of features in the references with disregard for the overall teaching of the prior art. Applicant respectfully submits that nothing in the prior art alone or in combination teaches the invention recited in the pending claims and respectfully requests reconsideration and withdrawal of all rejections.

For the foregoing reasons, Applicants submit that the pending claims are fully described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. Moreover, Applicants submit that no combination of the cited references teaches, discloses or suggests the subject matter of the amended claims. The pending claims are therefore in condition for allowance, and Applicants respectfully request withdrawal of all rejections and allowance of the claims.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorizes that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (260) 897-3400.

Respectfully submitted,

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